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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,204	08/02/2001	Christopher S. Auttersen	AAS104A	5914

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EXAMINER

PICKETT, JOHN GREGORY

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,204

Applicant(s)

AUTTERSON, CHRISTOPHER S.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

2. The disclosure is objected to because of the following informalities: On page 1, line 17, "fora" appears to be a typographical error.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shackelford et al. (US 5,590,781).

Regarding claims 1 and 11, Shackelford et al. discloses in Figure 7 a shipping/packaging container body (200) having a first predetermined area (230), first advertisement (240), and a second predetermined area (234).

Shackelford et al. does not expressly disclose a first party owning said container, a second party or a second advertisement.

Stamps are a form of advertising of the United States Postal Service (USPS). Shackelford et al. teaches the use of stamps in second predetermined area (234), (col. 7, lines 12-18). The USPS is an entity of the federal government and is separate and distinct from private industry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a first party manufacturing company own shipping/packaging containers for use in the delivery of its products since such ownership is common and conventional in the packaging art. It would further be obvious to one of ordinary skill to ship a shipping/packaging container using the USPS as a second party, since such a delivery method is common and conventional in the shipping art. Using the USPS, it would have been obvious to one of ordinary skill in the

art to place a second advertisement (stamp) onto container body (200) in second predetermined area (234) since such a placement is common and conventional in shipment through the USPS.

As to claims 2 and 12, the second advertisement (stamp) is placed on second predetermined area (234) for shipment, second predetermined area (234) would otherwise be blank if container body (200) were hand delivered by the first party (the manufacturing company), or if container body (200) were used for internal distribution.

As to claims 3-4 and 13-14, second predetermined area (234) is allotted by the first party (the manufacturing company).

As to claims 5-8 and 15-18, second advertisement (stamp) is provided by the second party (USPS) to the first party (manufacturing company), and the first party (manufacturing company) determines second predetermined area (234).

As to claims 9-10 and 19-20, the USPS is not affiliated in any way to manufacturing companies.

Conclusion

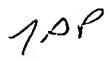
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schluger (Re. 33,503) discloses a container for multiple products with multiple advertisements. Kilian (US 4,779,733) discloses a package with second advertising area (14). Ribellino Jr. (US 4,828,104) discloses a package with advertising areas (12, 15). Kagami (JP 06171650 A) discloses a package and method for a second


area for advertising. Huddy (US 2002/0073584) discloses a package and method for additional, unrelated advertising.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Gregory Pickett
Examiner
December 23, 2002


M.D. Patterson
Primary Examiner